

EXHIBIT D

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UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

WHA

UNITED STATES OF AMERICA

v.

CHENG YUAN LIN, a.k.a. C.Y. LIN,

Defendant.

No. **CR 09**
INDICTMENT

0131

VIOLATIONS:
Title 15, United States Code,
Section 1 (Conspiracy in Restraint of Trade)

San Francisco Venue

The Grand Jury charges:

COUNT ONE: 15 U.S.C. § 1 (Conspiracy in Restraint of Trade)

I.

DESCRIPTION OF THE OFFENSE

1. CHENG YUAN LIN, a.k.a. C.Y. LIN, is hereby indicted and made a defendant on the charge stated below.

2. Beginning at least as early as January 28, 1997, until at least as late as April 7, 2003, the exact dates being unknown to the Grand Jury, the defendant CHENG YUAN LIN and coconspirators joined, entered into, and engaged in a combination and conspiracy to suppress and eliminate competition by fixing prices, reducing output, and allocating market shares of color display tubes ("CDTs") to be sold in the United States and elsewhere. The combination and

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1 conspiracy engaged in by the defendant and coconspirators was in unreasonable restraint of
2 interstate and foreign trade and commerce in violation of Section 1 of the Sherman Act (15
3 U.S.C. § 1).

4 3. The charged combination and conspiracy consisted of a continuing agreement,
5 understanding, and concert of action among the defendant and coconspirators, the substantial
6 terms of which were to agree to fix prices, reduce output, and allocate market shares of CDTs to
7 be sold in the United States and elsewhere for use in computer monitors and other products with
8 similar technological requirements.

9 II.

10 MEANS AND METHODS OF THE CONSPIRACY

11 4. For the purpose of forming and carrying out the charged combination and
12 conspiracy, the defendant and coconspirators did those things that they combined and conspired
13 to do, including, among other things:

- 14 (a) attended meetings and engaged in conversations and communications in
15 Taiwan, Korea, Malaysia, China, and elsewhere to discuss the prices,
16 output, and market shares of CDTs;
17 (b) agreed during those meetings, conversations, and communications to
18 charge prices of CDTs at certain target levels or ranges;
19 (c) agreed during those meetings, conversations, and communications to
20 reduce output of CDTs by shutting down CDT production lines for certain
21 periods of time;
22 (d) agreed during those meetings, conversations, and communications to
23 allocate target market shares for the CDT market overall and for certain
24 CDT customers;
25 (e) exchanged CDT sales, production, market share, and pricing
26 information for the purpose of implementing, monitoring, and enforcing
27 adherence to the agreed-upon prices, output reduction, and market share
28 allocation;

- 1 (f) implemented an auditing system that permitted coconspirators to visit each
2 other's production facilities to verify that CDT production lines had been
3 shut down as agreed;
4 (g) authorized and approved the participation of subordinate employees in the
5 conspiracy;
6 (h) issued price quotations and reduced output in accordance with the
7 agreements reached; and
8 (i) took steps to conceal the conspiracy and conspiratorial contacts through
9 various means.

10 III.

11 DEFENDANT AND COCONSPIRATORS

12 5. Defendant CHENG YUAN LIN is a resident of Taiwan, Republic of China. During
13 the period covered by this Indictment, CHENG YUAN LIN was Chairman and Chief Executive
14 Officer of Chunghwa Picture Tubes, Ltd. ("Chunghwa"). During the period covered by this
15 Indictment, Chunghwa was a Taiwanese company engaged in the business of producing and
16 selling, among other things, CDTs to customers in the United States and elsewhere.

17 6. Various corporations and individuals not made defendants in Count One of this
18 Indictment participated as coconspirators in the offenses charged in Count One of this Indictment
19 and performed acts and made statements in furtherance of it.

20 7. Whenever in this Indictment reference is made to any act, deed, or transaction of
21 any corporation, the allegation means that the corporation engaged in the act, deed, or transaction
22 by or through its officers, directors, employees, agents, or other representatives while they were
23 actively engaged in the management, direction, control, or transaction of its business or affairs.

24 IV.

25 TRADE AND COMMERCE

26 8. CDTs are a type of cathode ray tube. Cathode ray tubes consist of evacuated glass
27 envelopes that contain an electron gun and a phosphorescent screen. When electrons strike the
28 screen, light is emitted, creating an image on the screen. CDTs are the specialized cathode ray

1 tubes manufactured for use in computer monitors and other products with similar technological
2 requirements.

3 9. During the period covered by Count One of this Indictment, the defendant and
4 coconspirators sold and distributed substantial quantities of CDTs in a continuous and
5 uninterrupted flow of interstate and foreign trade and commerce to customers located in states or
6 countries other than the states or countries in which the defendant and coconspirators produced
7 CDTs. In addition, payments for CDTs traveled in interstate and foreign trade and commerce.

8 10. During the period covered by Count One of this Indictment, the business activities
9 of the defendant and coconspirators that are the subject of Count One of this Indictment were
10 within the flow of, and substantially affected, interstate and foreign trade and commerce.

11 V.

12 JURISDICTION AND VENUE

13 11. The combination and conspiracy charged in Count One of this Indictment was
14 carried out, in part, in the Northern District of California, within the five years preceding the filing
15 of this Indictment, excluding the period during which the running of the statute of limitations was
16 suspended pursuant to agreement with defendant CHENG YUAN LIN.

17 COUNT TWO: 15 U.S.C. § 1 (Conspiracy in Restraint of Trade)

18 VI.

19 DESCRIPTION OF THE OFFENSE

20 12. CHENG YUAN LIN, a.k.a. C.Y. LIN, is hereby indicted and made a defendant on
21 the charge stated below.

22 13. Beginning at least as early as March 12, 1997, until at least as late as April 7, 2003,
23 the exact dates being unknown to the Grand Jury, the defendant CHENG YUAN LIN and
24 coconspirators joined, entered into, and engaged in a combination and conspiracy to suppress and
25 eliminate competition by fixing the prices of color picture tubes ("CPTs") to be sold in the United
26 States and elsewhere. The combination and conspiracy engaged in by the defendant and
27 coconspirators was in unreasonable restraint of interstate and foreign trade and commerce in
28 violation of Section 1 of the Sherman Act (15 U.S.C. § 1).

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14. The charged combination and conspiracy consisted of a continuing agreement, understanding, and concert of action among the defendant and coconspirators, the substantial terms of which were to agree to fix the prices of CPTs to be sold in the United States and elsewhere for use in television sets.

VII.

MEANS AND METHODS OF THE CONSPIRACY

15. For the purpose of forming and carrying out the charged combination and conspiracy, the defendant and coconspirators did those things that they combined and conspired to do, including, among other things:

- (a) attended meetings and engaged in conversations and communications in Taiwan, Korea, Malaysia, China, Thailand, Indonesia, and elsewhere to discuss the prices of CPTs;
- (b) agreed during those meetings, conversations, and communications to charge prices of CPTs at certain target levels or ranges;
- (c) exchanged CPT pricing information for the purpose of implementing, monitoring, and enforcing adherence to the agreed-upon prices;
- (d) authorized and approved the participation of subordinate employees in the conspiracy;
- (e) issued price quotations in accordance with the agreements reached; and
- (f) took steps to conceal the conspiracy and conspiratorial contacts through various means.

VIII.

DEFENDANT AND COCONSPIRATORS

16. Defendant CHENG YUAN LIN is a resident of Taiwan, Republic of China. During the period covered by this Indictment, CHENG YUAN LIN was Chairman and Chief Executive Officer of Chunghwa. During the period covered by this Indictment, Chunghwa was a Taiwanese company engaged in the business of producing and selling, among other things, CPTs to customers in the United States and elsewhere.

1 17. Various corporations and individuals not made defendants in Count Two of this
2 Indictment participated as coconspirators in the offenses charged in Count Two of this Indictment
3 and performed acts and made statements in furtherance of it.

4 18. Whenever in this Indictment reference is made to any act, deed, or transaction of
5 any corporation, the allegation means that the corporation engaged in the act, deed, or transaction
6 by or through its officers, directors, employees, agents, or other representatives while they were
7 actively engaged in the management, direction, control, or transaction of its business or affairs.

8 IX.

9 TRADE AND COMMERCE

10 19. CPTs are a type of cathode ray tube. Cathode ray tubes consist of evacuated glass
11 envelopes that contain an electron gun and a phosphorescent screen. When electrons strike the
12 screen, light is emitted, creating an image on the screen. CPTs are the specialized cathode ray
13 tubes manufactured for use in television sets.

14 20. During the period covered by Count Two of this Indictment, the defendant and
15 coconspirators sold and distributed substantial quantities of CPTs in a continuous and
16 uninterrupted flow of interstate and foreign trade and commerce to customers located in states or
17 countries other than the states or countries in which the defendant and coconspirators produced
18 CPTs. In addition, payments for CPTs traveled in interstate and foreign trade and commerce.

19 21. During the period covered by Count Two of this Indictment, the business activities
20 of the defendant and coconspirators that are the subject of Count Two of this Indictment were
21 within the flow of, and substantially affected, interstate and foreign trade and commerce.

22 X.

23 JURISDICTION AND VENUE

24 22. The combination and conspiracy charged in Count Two of this Indictment was
25 carried out, in part, in the Northern District of California, within the five years preceding the filing
26 of this Indictment, excluding the period during which the running of the statute of limitations was
27 suspended pursuant to agreement with defendant CHENG YUAN LIN.


28 ALL IN VIOLATION OF TITLE 15, UNITED STATES CODE, SECTION 1.

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1 DATED:

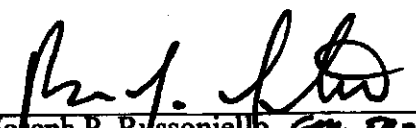
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A TRUE BILL

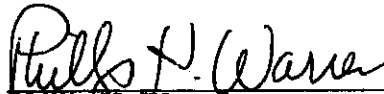
2 
3 Scott D. Hammond
4 Acting Assistant Attorney General

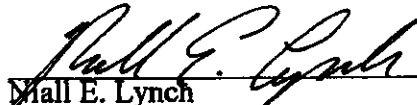
5 
6 Marc Siegel
7 Director of Criminal Enforcement

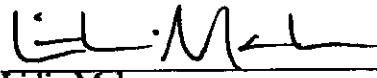
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11 Joseph P. Russoniello *For JPR*
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